

ORDINANCE NO. 321.2018

FILED FOR RECORD
2018 SEP 18 PM 3:10
JANET C. HENRY
CLERK OF COURTS
KERSHAW COUNTY, SC

AN ORDINANCE OF THE COUNTY COUNCIL OF KERSHAW COUNTY, SOUTH CAROLINA TO AMEND THE COUNTY'S OFFICIAL ZONING MAP DESIGNATION FOR A 10.1 ACRES OF TAX PARCEL #239-00-00-155(P) FOR GREG GOOGER FROM MRD-1 TO GD AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Article VIII of the South Carolina Constitution and Section 4-9-30 of the Code of Laws of South Carolina (the Home Rule Act) gives Kershaw County broad authority to provide a variety of services and functions within its jurisdiction, including but not limited to, utility planning, programming, and construction; transportation planning, programming and construction; land use planning and regulation; economic development planning and programming; and similar activities and services; and

WHEREAS, Title 6, Chapter 29, et. seq., Code of Laws of South Carolina (SCCL), the South Carolina Local Government Comprehensive Planning Enabling Act of 1994, herein after referred to as Section 6-29, provides the statutory enabling authority for Kershaw County to engage in planning and regulation of development within its jurisdiction; and

WHEREAS, the County Council adopted a Comprehensive Plan on March 27, 2018 pursuant to the requirements of Section 6-29-510, et. seq. SCCL; and

WHEREAS, the Planning and Zoning Commission is the designated local planning commission pursuant to the requirements of Section 6-29-310, et. seq.; and

WHEREAS, Section 6-29-710 SCCL and Article 6 of the Kershaw County Unified Code of Zoning and Land Development Regulations provide the authority and process for Kershaw County to prepare, periodically amend and enforce zoning regulations that are consistent with and implement the latest version of the adopted Comprehensive Plan; and

WHEREAS, pursuant to the requirements of Section 6-29-540, all public and private development proposals shall be reviewed by the Kershaw County Planning and Zoning Commission to ensure the proposed project is compatible with and implements the latest version of the Comprehensive Plan; and

WHEREAS, the Kershaw County Planning and Zoning Commission reviewed the proposed map amendment on June 11, 2018 and made findings of fact that the proposed amendment conforms to the requirements of the Comprehensive Plan and recommended the County Council adopt this Ordinance; and

WHEREAS, the Planning and Zoning Commission conducted a public hearing on June 11, 2018 as required by Article 6 of the Kershaw County Unified Code of Zoning and Land Development Regulations to consider the comments from the interested public and subsequently voted to recommend this Ordinance to County Council.

NOW THEREFORE, BE IT ORDAINED that the Official Zoning Map of Kershaw County, South Carolina is hereby amended to change the zoning classification for the property shown as 10.1 acres of TMS# 239-00-00-155(P) from MRD-1 to GD in conformance with the requirements stated above.

SEVERABILITY

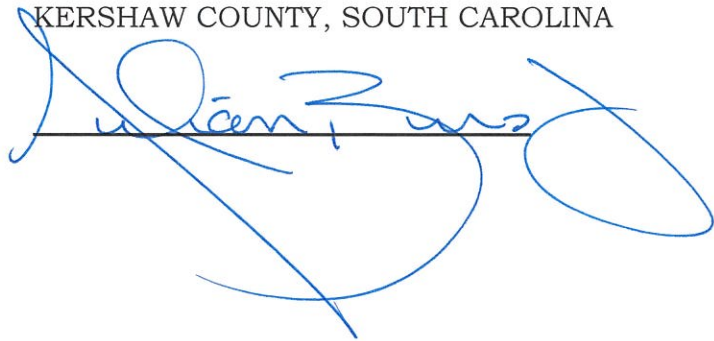
Should any section or provision of this ordinance be declared unconstitutional, or invalid for any reason, such declaration shall not affect the validity of the ordinance as a whole, or any part thereof, which is not specifically declared to be invalid, or unconstitutional.

EFFECTIVE DATE

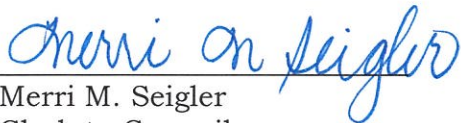
This ordinance shall take effect immediately upon adoption.

ADOPTED THIS 14th DAY OF AUGUST, 2018

KERSHAW COUNTY, SOUTH CAROLINA

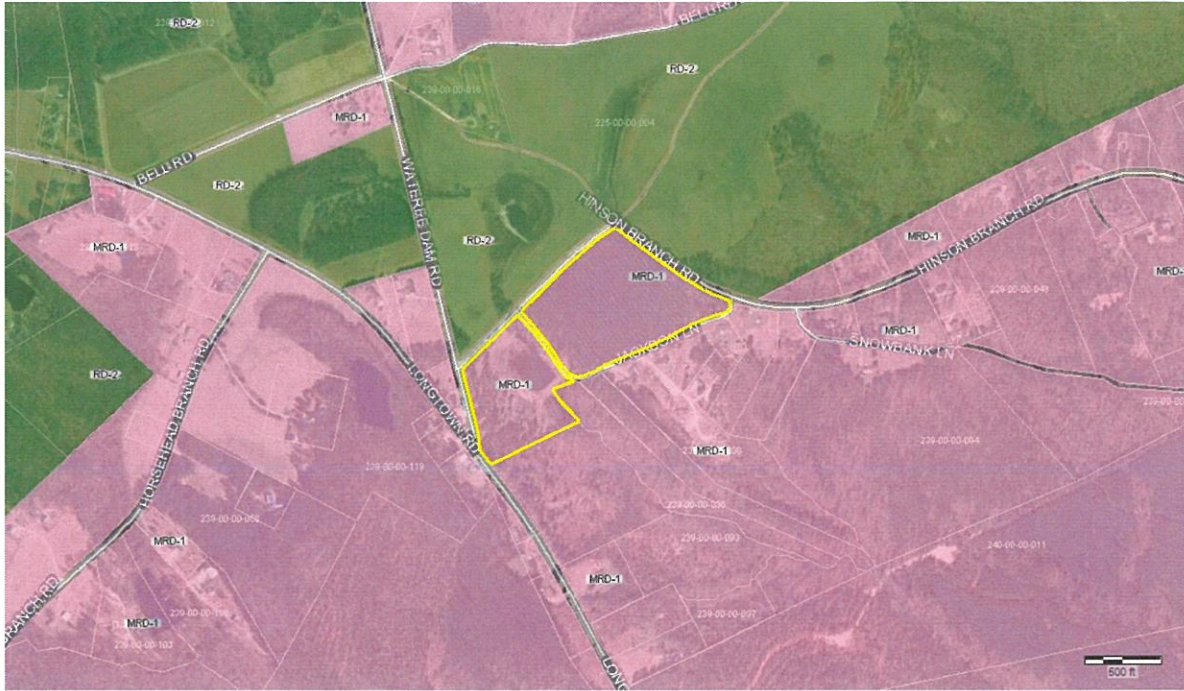


ATTEST:



Merri M. Seigler
Clerk to Council

First Reading	July 10, 2018
Second Reading	July 24, 2018
Third Reading	August 14, 2018



KERSHAW COUNTY PLANNING & ZONING COMMISSION

REQUEST FOR MAP AMENDMENT BY GREG GOOGER

Current Zoning: MRD-1

Proposed Zoning: GD

TMS#239-00-00-155(P)

June 11, 2018

STAFF REPORT

KERSHAW COUNTY PLANNING COMMISSION (June 11, 2018 Meeting)

Request #: 18-04
Staff: Michael Conley

Applicant: Greg Googer
Property Size: 10.1 acres

Current Zoning: MRD-1 (Rural Resource District)
Proposed Zoning: GD (General Development District)
Location: 988 Wateree Dam Road, Lugoff
TMS#: 239-00-00-155(P)

Background Summary: This parcel in its entirety is approximately 26.23 acres. The property would be subdivided into two parcels if the rezoning is approved. The 10.10 acres boarding Wateree Dam Road and Shiloh Church Road would become a separate parcel and be rezoned. The larger rear parcel approx. 16.13 acres, traditionally used as timber, would remain zoned MRD-1. The portion requesting to be rezoned remains and has remained largely vacant except for an old residence and a large pond. The larger section surrounded by Jackson Lane has been used for timber for a number of years.

Key Issue Summary: The following key issues should be resolved through the consideration of this application:

- Does the request follow the Future Land Use Map?
- Does the request correlate with the current Kershaw County Comprehensive Plan?

Preliminary Staff Recommendation: Staff does not object to the Planning and Zoning Commission recommending approval of the rezoning request of the subject property from MRD-1 to GD.

Current Property Information

Land Use	Vacant
Site Features	Large rural property sitting at a major intersection leading to a growing residential district of our county.
Flood Hazards	No flood hazards exist on the subject property
Vehicle Access	The subject property can be accessed from 3 different state maintained paved roads.

Surrounding Zoning and Land Use

	Zoning:	Land Use:
North:	Both MRD-1 and RD-2	Large Acreage Single Family Residence and Vacant Land
South:	MRD-1	Large Acreage Single Family Residence and Vacant Land
East:	Both MRD-1 and RD-2	Single Family Residence and Vacant Land
West:	Both MRD-1 and RD-2	Church, Commercial Business, Single Family Residence and Vacant Land

Zoning District Summary (Existing/ Proposed)

	Existing Zoning: MRD-1	Proposed Zoning: GD
Zoning District Intent:	The value of agricultural lands, woodlands, wetlands, and other resources which characterize this district are important to clean water, air, and to many natural cycles. These lands provide much of the character that makes Kershaw County an attractive place to live. The intent of this district, therefore, is to protect these area resources from development, which would needlessly alter their rural state and contribution to a balanced environment.	This is a multiple use district, the intent of which is to promote the “highest and best use” of land without negatively impacting surrounding land uses or environmental resources. The GD zoning district has the widest range of permitted residential uses - from single-family, to apartments, to manufactured home parks. The GD district also allows for the widest range of non-residential uses - from retail to agricultural to light industrial. The GD zoning district affords the applications of the Comprehensive Plan’s mixed use principals.
Permitted Uses:	<ul style="list-style-type: none"> Single-Family Detached Agricultural Production Crops, Livestock, Animals Forestry and Logging Fishing, Hunting, and Trapping Mining Electric, Gas, and Sanitary Services Wild Game Processing Gasoline Stations Transportation and Warehousing Libraries and Archives Veterinary services Landscape Services Educational Services Nursing Care Facilities Zoos and Botanical Gardens Hunt Clubs Public Cemeteries Pet Care Fire Protection 	<ul style="list-style-type: none"> Single-Family Detached Manufactured Housing Multi-Family, Apartments Electric Transmission Only Water Supply Systems Storage Agricultural Production Crops Food and Beverage Stores Libraries and Archives Eating Places Gasoline Stations General Auto Repair Banks Hotels and Motels Community Center for Elderly or Other Residential Care Facilities Museums Golf, Tennis, Swimming Club Religious Organizations Fire Protection Attorney’s Office Barber and Beauty Shops



Water and Sewer Service:	Lugoff Elgin Water Authority	Lugoff Elgin Water Authority
Lot and/or Density Requirements:	Minimum 1 acre or 43,560 SF	<p>Minimum lot size in GD for lots without access to public sewer or community onsite sewage treatment and disposal systems and public water (lots on septic tank and well) shall be three quarters (3/4) of an acre (.75 acre).</p> <p>The minimum lot size in GD for lots without access to public sewer or community onsite sewage treatment and disposal systems, but on public water, shall be one-half (1/2) acre (.50 acre).</p> <p>Minimum lot size in GD on public sewer and public water is .13 of acre (6,000 sq. ft.).</p>
Setbacks Required:	<p>Street Frontage: 100'</p> <p>Front: 35'</p> <p>Side: 20'</p> <p>Rear: 30'</p>	<p>Street Frontage: 50'</p> <p>Front: 35'</p> <p>Side: 10'</p> <p>Rear: 10'</p>
Height Restrictions:	35'	4 stories
Maximum Impervious Surface Ratio: Measured as a percent of total lot area	.40	.75
Maximum Density: Measurements in units per gross acre	1	None for non-residential uses

Infrastructure

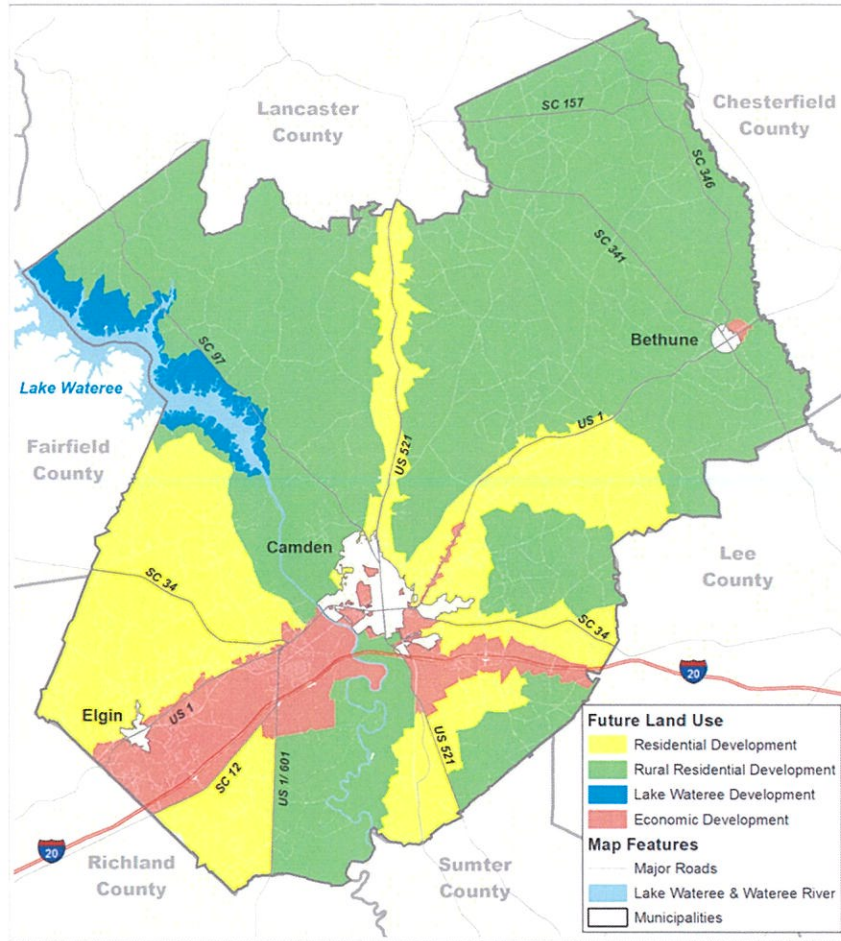
Council District	District 1
Water	Lugoff Elgin Water Authority
Electricity	unknown
Sewer or Septic	Septic
School(s)	Lugoff Elementary Lugoff Middle School Lugoff High School
Fire District	Pine Grove Fire District
Police Department	Kershaw County Sheriff's Department

Traffic

Street Classification	Current LOS (Level Of Service)
<p>Residential Collector (RC) Streets - Streets connecting residential development to major arterial roads. For purposes of this classification, the distinction between an RL and an RC classification shall be that a residential collector (RC) street shall be projected to receive in excess of 2000 average daily trips (ADT) per the most recent edition of the <i>Institute of Transportation Engineers (ITE) Trip Generation Manual</i> and the <i>ITE Trip Generation Handbook</i>.</p>	<p>Longtown Road currently averages 2800 trips per day according to SCDOT trip generator.</p>

Comprehensive Plan Considerations:

- *Channel projected population gains into areas of the County best suited to accommodate growth, i.e. areas with existing and/or planned infrastructure, and away from rural areas and natural resources.*
- *Channel most projected housing into defined "development areas" with essential support facilities.*
- *Coordinate the provision of community facilities to coincide with the projected needs of development*



Planning Considerations:

- Residential Development (RD)** - Residential Development areas are characterized by suburban development from the periphery of the urban core and reach into the unincorporated areas of the County, generally along and near major transportation routes including U.S. Highways 1 and 521 and S.C. Highways 12 and 34. Included in RD are residences of all types and densities and associated non-residential uses that support residential development such as institutional, retail, office, commercial, and service uses.
- Rural Resource Development (RR)** - Lands in more rural areas of the County that are primarily in use as low density residential, agriculture, or forestry, or are undeveloped. Rural commercial and limited institutional and industrial developments are also present in Rural Resource Development areas. Established unincorporated rural communities including Boonetown, Boykin Mill, Rabon's Crossroads, Liberty Hill, Buffalo/Mt. Pisgah, Cassatt, Westville, Gates Ford, Beaver Creek, Tookiedoo, Pine Grove, Doby's Mill, and Salt Pond are also in the RR areas of the County. While land in the RR areas are expected to continue to be primarily low density residential and agricultural in nature, it is anticipated that other complementary and associated uses such as public and institutional, parks and recreation, higher density residential, commercial, and industrial uses will locate in these areas where appropriate.

Decision Criteria:

Again the key issues that should be resolved through consideration of this application are:

- Does the request follow the Future Land Use Map?
- Does the request correlate with the current Kershaw County Comprehensive Plan?

The Comprehensive Plan.

Preliminary Staff Comments: The request is within compliance of the goals of the Comprehensive Plan and Future Land Use Map. The property sits between the county's comprehensive plan defined areas of Residential District and Rural Resource District which runs north along both sides of Longtown Road. Both districts address the need for small neighborhood commercial areas to support the residential development in hopes of decreasing the amount of vehicle traffic. While the lake properties continue to develop along the western shore of Lake Wateree, the development of a low impact commercial district for this northern area of the county could be beneficial to the residents in the area possibly cutting down on the amount of commuter traffic going back into Lugoff for small items. This location already has the commercial business operating across Longtown Road from the subject property. The lack of infrasture in the area, no sewer system, should limit the amount of commercial growth. While the lack of a sewer system is concerning for staff, this location has not been saturated by underground systems at this time. Staff is aware of the "not in my backyard" mentality for projects of this nature. The addition of another commercial business has the potential to be an overall benefit to the surrounding area.

The current conditions and character of the current structures and uses in each district.

Preliminary Staff Comments: The subject parcel is surrounding by MRD-1 and RD-2 (rural zoning districts). The subject parcel is approximately 5 miles south to Hwy 1 and the next closest commercially zoned parcel. The request does however negate the possibility of a spot zoning issue. The parcel is large enough and the request is not arbitrary in nature. The surrounding parcels are residential except for the commercial property across Longtown Road. Staff does give the Planning Commission the following for informational purposes. "As defined by the South Carolina Municipal Association: Zoning a small parcel as an island surrounded by a district with different zoning may be spot zoning. The Supreme Court stated that invalid "spot zoning" is the process of singling out a small parcel of land for a use classification totally different from that of the surrounding area to benefit the owners of such property and to the detriment of other owners. *Bob Jones University, Inc. v. City of Greenville*, 243 S.C. 351, 133 S.E.2d 843 (1963). Small areas may be rezoned as long as the action is not arbitrary or unreasonable. To help avoid the problem of spot zoning, many zoning ordinances include a provision prohibiting some types of free standing zoning districts of less than two acres."

The most desirable use for which the land in each district is adapted.

Preliminary Staff Comments: The subject property is located in an area of Lugoff that is favorable for development. Encouraging the clustering of commercial establishments in nodes which are convenient to population concentrations. Where opportunities are present along major roadways (Longtown Road) and intersections, zoning regulations allowing for a mix of developments should be encouraged. These centers will create pedestrian friendly public environments. Such commercial development will focus on neighborhood centers are also excellent locations for public facilities such as libraries and health clinics.

The conservation of property values throughout the jurisdiction of Kershaw County.

Preliminary Staff Comments: Staff has not seen any empirical evidence that additional new construction will have a negative impact on property values. On the contrary, commercial development has the tendency to increase property values.

Responsible growth and development:

Preliminary Staff Comments: The proposed project meets the objectives of encouraging the clustering of pedestrian-friendly neighborhood commercial development near residential areas and establishing mixed-use town centers, including restaurants, commercial, retail, and residential space adjacent to Lake Wateree to encourage sustainable growth and accessible services to residents.

Planning and Zoning Commission Options:

Reviewing a request for a map amendment the Planning and Zoning Commission may:

1. Forward a favorable recommendation to the Kershaw County Council
2. Forward an unfavorable recommendation to the Kershaw County Council
3. Continue to the review to the next Planning and Zoning Commission Meeting

Staff does not object to the Planning and Zoning Commission recommending approval of the rezoning request of the subject property from MRD-1 to GD. The Kershaw County Council makes all final decisions regarding rezoning applications.

STAFF REPORT TO COUNTY COUNCIL

On June 11, 2018 the Planning and Zoning Commission held a public hearing on the request of Greg Googer, Applicant, to rezone the land at 988 Wateree Dam Road (TMS#239-00-00-155(P)) consisting of approximately 10.1 acres from MRD-1 rural resource district to GD general development zoning district. Planning and Zoning Commission members present were Claude Eichelberger, George Harkins, Kate Denton, Gary Whitlock, and Kevin Scharf; members Curtis Blackmon and Beth Smith were absent.

During the hearing, Michael Conley, Planning Director, gave the staff report and did not object to the rezoning request. George Googer, applicant, was present to answer any questions and presented his case. There were several members of the public present in opposition of the rezoning. One opposed because of added commercial in the area, one church member opposed because of the drinking at the present business across the street, one church member had concerns because of the existing business allowing drinking during service hours, and another member was undecided. Al Bozard, Kershaw County Council member, presented a petition with approximately 40 signatures opposing to the rezoning request. Two surrounding property owners voice their support of the application plus two church members. The property owner also spoke in favor of the request as did his attorney, William Tetterton. After discussion between Commission members, and some more public comments from citizens, applicant, property owner, and attorney; George Harkins made a motion that the Planning Commission recommend approval of the rezoning request of the property from MRD-1 to GD zoning. Gary Whitlock seconded the motion. The motion carried with a 5 to 0 vote.



Aerial view of subject property (Case# 18-04)



Adjacent Properties off Longtown Road (Case# 18-04)



Adjacent residences to subject property (Case# 18-04)



Interior photos of subject property (Case #18-04)